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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 4/20/05

Application Number: 09/754,378
Filing Date: January 5, 2001
Appellant(s): Craig W. BARNETT et al.

Bradford C. Blaise
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/10/05.

(1)   Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2)   Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or

be directly affected by or have a bearing on the decision in the pending appeal is contained in the

brief.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4)   Status of Amendments After Final

The Appellant's statement of the status of amendments after final rejection contained in

the brief is correct.

(5)   Summary of Invention

The summary of invention contained in the brief is correct.

(6)   Grounds of Rejection to be Reviewed on Appeal

The Appellant's statement of the Grounds of Rejection to be Reviewed on Appeal in the

brief is correct.

(7)   Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8)   Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims

under appeal.

5,227,874	Von Kohorn	7-1993
5,734,823	Saigh	3-1998

(9)   Grounds of Rejection

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent possible
harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.
Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA
1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to
overcome an actual or provisional rejection based on a nonstatutory double patenting ground
provided the conflicting application or patent is shown to be commonly owned with this
application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal
disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37
CFR 3.73(b).

Claim 76-112 provisionally rejected under the judicially created doctrine of obviousness-

type double patenting as being unpatentable over claim 63-74 of copending Application No.

09/321,597. Although the conflicting claims are not identical, they are not patentably distinct

from each other.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

Claim 76-81, 83-89 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-8 of U.S. Patent No. 6,321,208. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Claim Rejections - 35 USC § 112

Claim 82, 91 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 82 discloses, ". . .coupon is provided to the user via an electronic mail message". However, the Applicant's specification does not disclose utilizing an electronic mail message to provide to the user the coupon.

Claim 91 discloses, "wherein downloading the incentive data management software module comprises downloading the unique identifier".

However, the Applicant's specification does not support this combination of features.

Claim Rejections - 35 USC § 103

Claim 76-112 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Hohorn (5,227,874) in view of Saigh (5,734,823).

Claim 76, 88, 111, 112: Von Kohorn discloses a method for viewing and printing at a remote terminal user-specific incentives, the method comprising:

storing at a network-accessible location incentive information pertaining to a group of

available incentives (col 74, lines 33-40; col 16, lines 30-40; col 19, lines 20-39; Fig. 29, item

904; col 94, lines 35-41; col 95, lines 5-10; col 45, line 41-44);

storing user profile information and user usage history information for one or more users

(col 3, lines 33-col 4, line 2; col 1, line 55-col 2, line 48; col 46, lines 41-46; col 113, lines 20-

22); receiving at the network-accessible location, from a user of a remote terminal, a request for

access to the stored incentive information (col 2, line 65-col 3, line 2);

determining at the network-accessible location if the user is a registered user, and if the

user is not registered (col 3, line 56-col 3, line 66; col 94, line 56-col 94, line 70; col 97, line 64-

col 98, line 5; col 100, lines 42-50; col 103, line 65-col 104, line 3;):

i) transmitting a prompt to the user's remote terminal to electronically complete a user

profile (col 46, lines 41-46; col 113, lines 20-22);

ii) receiving and storing the user profile (col 3, lines 33-col 4, line 2; col 1, line 55-col 2,

line 48; col 46, lines 41-46; col 113, lines 20-22); and

iii) downloading to the user's remote terminal an incentive data management software

module for managing the printing of incentives (col 2, lines 55-63; col 14, lines 20-25; col 10,

lines 40-45; col 13, lines 60-66; col 74, lines 33-40; col 16, lines 35-40; Fig. 30), wherein a

printed incentive includes unique user identification information (col 10, lines 40-45; co137,

lines 25-30);

if the user is registered, the user viewing a subset of incentives from the group of

available incentives, the subset of incentives being based on user-specific information, which

comprises at least one of the user profile information and the user usage history information (col 2, line 6-37; col 3, lines 55-col 4, line 2; col 106, lines 1-10; col 2, lines 49-56);

the user selecting one or more incentives from the subset of incentives for printing, each of the one or more incentives comprising various fields, including a redemption amount field and at least one other field, the redemption amount field comprising data indicative of a discount provided by the incentive, the at least one other field being determined in accordance with user-specific information associated with the requesting user (col 37, line 10-35; col 3, lines 45-50; col 22, lines 1-15);

printing at the remote terminal, under control of the incentive data management software module, one or more of the user-selected incentives (col 37, line 10-35);

subsequent to a user redeeming one or more of the printed incentives, providing at least incentive redemption data to at least one incentive distributor or incentive issuer to enable the at least one incentive distributor or incentive issuer to use at least the incentive redemption data for market analysis to create at least one subsequent target incentive targeted based on the criteria; and making the at least one subsequent incentive available to the user if the user satisfies the targeting criteria (col 3, line 33-col 4, line 2; col 1, lines 25-42; col 1,line 59-col 2, line 20).

Von Kohorn further discloses that the method can utilize a variety of networks (col 44, line 45-col 45, line 15; col 88, line 55- col 89, line 15).

Von Kohorn further discloses the utilization of networks for disseminating information (Fig. 7; col 38, line 60-col 39, line 5), that coupons can be transmitted to users (col 74, lines 33-55; Fig. 29; col 2, lines 45-57; col 5, lines 56-61; col 22, lines 1-11; col 47, line 40-col 48, line 2; col 2, lines 45-52), and that coupons can be printed (col 10, lines 15-21).

Von Kohorn does not explicitly disclose that the communication channel can be the Internet.

However, Saigh discloses the utilization of the Internet for the dissemination of a variety of information (col 1, lines 38-41; col 5, lines 20-30), that coupons can be transmitted to users (col 14, lines 60-65; col 8, lines 3-6) and that the coupons can be printed (col 8, lines 59-61).

Saigh further discloses that the service system is associated with an Internet web site (col 14, lines 15-21).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Saigh's utilization of the Internet to Von Kohorn transmitting coupons. One would have been motivated to do this because the Internet is a readily available network for transmitting information.

Von Kohorn further discloses downloading or transmitting instructional signals and programming routines (col 2, lines 55-60; col 109, lines 10-16; col 14, lines 20-25; col 20, lines 57-65; col 26, lines 45-52; col 6, line 56-col 7, line 27).

Von Kohorn further discloses that the programming instructions are ordered as a module or in a group (col 5, lines 31-45; col 4, line 21-35; col 41, liners 28-60).

Von Kohorn further discloses that the programmed response unit can print incentives (col 2, lines 52-56; col 39, lines 24-31; col 41, lines 52-60; col 19, lines 29-34; col 20, lines 57-64; col 22, lines 49-55; col 34, line 67-col 35, line 6).

Additionally, Von Kohorn discloses that the user's system is specified as a remote system (Fig. 2; page 20, lines 7-11). Furthermore, the printer's are associated with the user's system (page 16, lines 5-10).

Additionally, Von Kohorn discloses electronically storing a plurality of coupons in a

memory associated with the electronic coupon dispensing system (col 76, lines 55-60; Fig. 25;

Fig. 26).

Von Kohorn further discloses permitting selection from said plurality of coupons from a

coupon menu (col 2, line 65-col 3, line 2; col 81, lines 42-45; Fig. 25; Fig. 26).

Additionally, Von Kohorn discloses downloading coupon information from a host to a

client (col 74, lines 33-55; Fig. 29; col 2, lines 45-57; col 5, lines 56-61; col 22, lines 1-11)

where the host is a host system (col 94, lines 32-47) and the client is a client system (Fig. 26).

Von Kohorn further discloses that the consumer can indicate an interest in a product and

that incentives can be sent to a consumer in response to the consumer interest (col 47, line 40-col

48, line 2) and that the incentives can be coupons (col 2, lines 45-52).

Von Kohorn further discloses targeting incentives to users based on user history

information (col 108, lines 31-65).

Von Kohorn further discloses that the user can select incentives or coupons for printing

(col 2, line 65-col 3, line 2; col 101, lines 30-36; col 109, lines 10-27; col 111, lines 44-68).

Von Kohorn further discloses that each printed incentive can be rendered unique by

including on the printed incentive user identification information and unique incentive

information (col 2, lines 10-29; col 3, lines 31-37; col 3, lines 55-66; col 39, lines 42-46; col 40,

lines 10-15; col 86, lines 3-24).

Von Kohorn further discloses storing information at the Internet-accessible service

system regarding incentives printed by the printer associated with the remote user system (col

30, lines 41-46; col 3, lines 2-14; col 39, lines 25-32).

Von Kohorn further discloses receiving redemption information regarding one or more

printed incentives that have been redeemed; and storing the redemption information at the

Internet accessible service system (col 89, lines 35-42; col 101, lines 55-65; col 104, lines 25-34;

col 106, lines 38-54; col 10, lines 15-21).

Von Kohorn further discloses that the redemption information is associated with the

remote user system (col 2, lines 20-29), is associated with a user associated with the remote user

system (col 1, lines 59-66), is associated with an account associated with the remote user system

(col 3, lines 17-22; col 94, lines 1-12; col 94, lines 56-62; col 97, lines 64-70; col 103, line 62-col

104, line 2).

Claim 77: Von Kohorn and Saigh disclose the method of claim 76, and Von Kohorn

further discloses storing at an Internet-accessible location incentive information pertaining to a

group of available incentives further comprises storing advertising materials provided by one or

more incentive issuers or distributors (col 2, lines 40-65).

Claim 78: Von Kohorn and Saigh disclose the method of claim 77, and Von Kohorn

further discloses that the advertising materials comprise one or more of graphics, text, recipes,

competitions, or inducements (col 2, lines 40-65).

Claim 79: Von Kohorn and Saigh disclose the method of claim 77, and Von Kohorn

further discloses enabling a user to view a subset of incentives further comprises the step of

enabling the user to view the advertising materials (col 47, line 40-col 48, line 2; col 2, line 65-

col 3, line 2; col 81, lines 10-23; col 81, lines 7-40).

Claim 80: Von Kohorn and Saigh disclose the method of claim 76, wherein the user

profile received and stored at the Internet accessible location comprises demographic data (col

46, lines 41-46; col 113, lines 20-22).

Claim 81: Von Kohorn and Saigh disclose the method of claim 76, and Von Kohorn

further discloses that redemption data for multiple users is used by the at least one incentive

distributor or incentive issuer for market analysis to compile at least one subsequent incentive

targeted specifically at the user (col 1, lines 25-43; col 1, lines 59-col 2, line 11; col 3, lines 55-

col 4, line 2; col 106, lines 1-10).

Claim 82, 83: Von Kohorn and Saigh disclose the method of claim 76.

Von Kohorn further discloses that the at least one subsequent incentive is downloaded

from the network-accessible location (col 2, line 6-37; col 3, lines 55-col 4, line 2; col 106, lines

1-10; col 2, lines 49-56).

Von Kohorn does not explicitly disclose that the incentives are downloaded from an

Internet accessible location.

However, Saigh discloses utilizing the Internet (col 1, lines 38-41; col 5, lines 20-30) and

downloading promotional information (col 14, lines 15-31).

Saigh further discloses the utilization of e-mail for incentive related communication (col

14, lines 26-29).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to add Saigh's downloading via the Internet or Saigh's utilization of e-

mail to Von Kohorn's downloading incentives. One would have been motivated to do this

because the Internet is a readily available network for electronic communication.

Claim 84: Von Kohorn and Saigh disclose the method of claim 76, and Von Kohorn further discloses that the at least one subsequent incentive is for a product other than a product covered by the one or more redeemed printed incentives (col 84, lines 11-25; col 106, lines 3-10; col 3, line 37-col 4, line 2).

Claim 85: Von Kohorn and Saigh disclose the method of claim 76, and Von Kohorn further discloses that the at least one subsequent incentive is for a same product covered by the one or more redeemed printed incentives, but having a different value (col 3, lines 45-50; col 22, lines 1-15).

Claim 86: Von Kohorn and Saigh disclose the method of claim 76.

Von Kohorn does not explicitly disclose that the at least one subsequent incentive is transmitted to a retailer for electronic redemption.

However, Von Kohorn discloses redeeming incentives at a retailer and mailing incentives for redemption (col 8, lines 47-49), redeeming incentives in a variety of manners including over the phone (col 82, lines 40-45), and the electronic transfer of incentive information to redemption centers (col 40, lines 10-15).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Von Kohorn electronic transfer of redemption information to Von Kohorn varied manners of redeeming incentives. One would have been motivated to do this so that Von Kohorn's users have an additional and convenient way of redeeming incentives.

Claim 87: Von Kohorn and Saigh disclose the method of claim 76.

Von Kohorn further discloses that the service system is associated with a service provider (col 10, lines 21-30; col 88, line 55- col 89, line 15).

Von Kohorn does not explicitly disclose an online service.

However, Saigh discloses online service (col 1, lines 38-41; col 5, lines 20-30).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Saigh's online service provider to Von Kohorn service provider. One would have been motivated to do this because an online service provider is analogous to a service provider.

Claim 89: Von Kohorn and Saigh disclose the method of claim 76, and Von Kohorn further discloses that the incentives available to a user are sorted by categories (col 46, line 62-col 47, line 5).

Claim 90-98: Von Kohorn and Saigh disclose the method of claim 76.

Von Kohorn further discloses downloading to the remote terminal a unique identifier (col 39, lines 44-59).

Von Kohorn further discloses that downloading the incentive data management software module comprises downloading the unique identifier (col 41, lines 44-52; col 109, lines 10-16).

Von Kohorn further discloses that the unique identifier is stored on the remote terminal (col 86, lines 12-24; col 76, lines 55-60).

Von Kohorn further discloses that each printed incentive can be rendered unique by including on the printed incentive user identification information and unique incentive information (col 2, lines 10-29; col 3, lines 31-37; col 3, lines 55-66; col 39, lines 42-46; col 40, lines 10-15; col 86, lines 3-24).

Von Kohorn further discloses that the user identification information is encoded in a
user-specific bar code included on the printed incentive (col 10, lines 40-45; col 37, lines 25-
30).

Von Kohorn further discloses that each printed incentive is printed with a unique bar
code including unique identification information or printed with a unique identification number
(col 37, lines 19-32; col 10, lines 40-45).

Claim 99, 102, 103: Von Kohorn and Saigh disclose the method of claim 76. Von Kohorn
further discloses that the profile includes at least the user's demographic information (col 46,
lines 41-46; col 113, lines 20-22; col 3, lines 33-37; col 3, lines 42-col 4, line 2).

Von Kohorn further discloses collecting demographic data (col 46, lines 41-46; col 113,
lines 20-22).

Von Kohorn further discloses that the demographic data can be collected at a variety of
times (col 98, lines 33-45; col 46, lines 41-46; col 113, lines 20-22) in order to better target a
user (col 98, lines 33-45, col 113, lines 19-24) and that user profile information can include user
preference information (col 98, lines 33-45, col 113, lines 19-24).

Claim 100, 101: Von Kohorn and Saigh disclose the method of claim 99. Von Kohorn
further discloses that the incentives available to a user are based on the user data, and wherein
the user data includes at least the user's geographic information (col 1, line 63-67; col 20, lines 1-
5; col 1, lines 36-42; col 10, lines 21-30).

Von Kohorn does not explicitly disclose that the zip code is part of the user geographic
information.

However, Von Kohorn discloses utilizing mailing address information (col 20, lines 1-5), that stations service different geographic regions (col 10, lines 21-30), that households are identified (1, lines 36-42), and identifying different geographic regions such as counties (col 46, lines 41-47), identifying user distance from points of interest (col 113, lines 19-24), and that a wide variety of user information can be utilized for profiling a user (col 113, lines 19-24).

Additionally, zip code is part of standard information for identifying a household and mailing address information includes zip codes.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Von Kohorn's mailing address information with zip code to Von Kohorn's information on a user. One would have been motivated to do this in order to accurately identify user location or region.

Claim 104-107: Von Kohorn and Saigh disclose the method of claim 76.

Von Kohorn furher discloses enabling the user to register an account with the Internet-accessible service system (col 94, lines 1-12; col 94, lines 56-62; col 97, lines 64-70; col 103, line 62-col 104, line 2).

Von Kohorn further discloses

determining at the network-accessible location if the user is a registered user, and if the user is not registered (col 3, line 56-col 3, line 66; col 94, line 56-col 94, line 70; col 97, line 64-col 98, line 5; col 100, lines 42-50; col 103, line 65-col 104, line 3;):

i) transmitting a prompt to the user's remote terminal to electronically complete a user profile (col 46, lines 41-46; col 113, lines 20-22);

ii) receiving and storing the user profile (col 3, lines 33-col 4, line 2; col 1, line 55-col 2, line 48; col 46, lines 41-46; col 113, lines 20-22).

Von Kohorn further discloses individual, household, and individual and household accounts (col 1, lines 35-43; col 1, lines 61-67; col 3, lines 55-67).

Claim 108-110: Von Kohorn and Saigh disclose the method of claim 76. Von Kohorn further discloses receiving redemption information regarding one or more printed incentives that have been redeemed; and storing the redemption information at the Internet accessible service system (col 89, lines 35-42; col 101, lines 55-65; col 104, lines 25-34; col 106, lines 38-54; col 10, lines 15-21).

Von Kohorn further discloses that the redemption information is associated with the remote user system (col 2, lines 20-29; col 102, lines 1-5), is associated with a user associated with the remote user system (col 1, lines 59-66; col 102, lines 1-5), is associated with an account associated with the remote user system (col 3, lines 17-22; col 94, lines 1-12; col 94, lines 56-62; col 97, lines 64-70; col 103, line 62-col 104, line 2).

(10) *Response to Argument*

VII. A.

The following is in response to the Appellant's arguments presented in section VII. A. beginning on page 11 of the Appellant's Appeal Brief dated 3/10/2005 that address the 35 USC 112 rejections.

Claim 82 discloses, ". . .coupon is provided to the user via an electronic mail message".

However, the Appellant's specification does not disclose utilizing an electronic mail message to provide to the user the coupon. The Examiner has carefully reviewed the sections and Figure the Appellant has cited in order to attempt to show support for providing the user a coupon via an electronic mail message as disclosed in claim 82. However, these citations, as well as the rest of the Appellant's specification, only support utilizing electronic transmittal (such as downloading) for providing a coupon to a user. The Appellant's specification does not disclose utilizing an electronic mail message or e-mail to provide to the user the coupon. Therefore, there is no support for utilizing an electronic mail message or e-mail to provide to the user the coupon.

Claim 91 discloses, "wherein downloading the incentive data management software module comprises downloading the unique identifier". However, the Appellant's specification does not support this combination of features. The Appellant's specification supports downloading uniquely identified coupons or coupon packages. The Appellant's specification does not support downloading the unique identifier with the downloading of the incentive data management software module.

VII. B.

The following is in response to the Appellant's arguments presented in section VII. B. beginning on page 13 of the Appellant's Appeal Brief dated 3/10/2005 that address the 35 USC 103(a) rejections.

1) On page 14, Appellant states that Von Kohorn and Saigh are nonanalogous art. Examiner notes that it has been held that a prior art reference must either be in the field of

applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which

the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed

invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

In this case, the numerous citations made from Von Kohorn demonstrate the relevance of

the Von Kohorn specification to the Appellant's claims.

Also, Saigh discloses the providing of information that can include a wide range of

content including promotions, advertising, and coupons:

"(26)   From network interface 324, server 304 communicates with central transaction

data base 104 for electronic filing of transaction reports, communicates with Book Bank 302 to

give Book Bank 302 downloading instruction orders and to receive the status reports and the

inventory reports from Book Bank 302. Server 304 also is coupled, through network interface

324, to a Book Bank subsystem to receive subsystem reports in order to give instructions and

orders whenever necessary, as hereinafter discussed. External network systems such as

institutional or corporate network systems with local merchants terminals, community bulletin

board services and others can also be coupled to the network interface 324. The network

interface 324 also allows two-way connecting with interbank networks such as Cirrus, Plus or

other similar data transfer network. Coupling to merchants' terminals promotional system

provides local merchants and the local business direct access to update their promotions and

coupons. Maintenance interface 326 enables remote or on-site diagnosis and repair of server

304 (col 7, line 55-col 8, line 7);

(29)...A buffer memory 360 is utilized to speed up downloading in order to

accommodate high volume users during the peak seasons. A printer 362 is provided to print

coupons on demand, receipts and various reports for the users. A power supply 364 provides

power to printer 362, CPU 350, secondary storage device 358 and local storage 356. An

uninterrupted power supply 366 coupled to primary power supply 364 assures continuous

operation even during power down time (col 8, lines 56-65);

(54)... The user may order products or information electronically via the network. Some

of the promotional functions are: coupons on demand, virtual shopping, catalog sales, demos,

subscription orders, electronic applications of credit cards, calling cards, or other types of

services. Some public domain information distributed such as community events, ticket sales,

institutional events or even public bulletins could also be distributed with the promotional

information as a free or low cost service to the community" (col 14, line 60-col 15, line 4).

Also, Von Kohorn discloses the utilization of networks for disseminating information

(Fig. 7; col 38, line 60-col 39, line 5), that coupons can be transmitted to users (col 74, lines 33-

55; Fig. 29; col 2, lines 45-57; col 5, lines 56-61; col 22, lines 1-11; col 47, line 40-col 48, line 2;

col 2, lines 45-52), and that coupons can be printed (col 10, lines 15-21).

Saigh discloses the utilization of the Internet for the dissemination of a variety of

information (col 1, lines 38-41; col 5, lines 20-30), that coupons can be transmitted to users (col

14, lines 60-65; col 8, lines 3-6) and that the coupons can be printed (col 8, lines 59-61).

Hence, both Von Kohorn and Saigh provide information and content to the user that can

include promotions, advertising, and coupons. Therefore, Von Kohorn and Saigh are analogous

art relevant to the Appellant's claims.

2) On page 18, Appellant states that there is no motivation to combine Von Kohorn and

Saigh. The examiner recognizes that obviousness can only be established by combining or

modifying the teachings of the prior art to produce the claimed invention where there is some

teaching, suggestion, or motivation to do so found either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071,

5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir.

1992). Also, the test for obviousness is not whether the features of a secondary reference may be

bodily incorporated into the structure of the primary reference; nor is it that the claimed

invention must be expressly suggested in any one or all of the references. Rather, the test is what

the combined teachings of the references would have suggested to those of ordinary skill in the

art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Examiner further notes that Von Kohorn discloses utilizing a home computer in

communication with other computers by way of networks utilizing cable connections or

telephone connections:

"(209) ...interested viewers who are potential buyers have the opportunity to request

additional or supplemental information over cable connections such as cable or telephone

connections used for home computers" (col 47, lines 40-45).

Examiner further notes that as both Von Kohorn and Saigh provide information and

content to the user that can include promotions, advertising, and coupons, Saigh was added to

Von Kohorn to provide Von Kohorn with further communication network capabilities via the

Internet. Von Kohorn would be motivated to utilize the Internet to take better advantage of a

network that is far reaching and readily available.

Therefore, there is motivation to combine Von Kohorn and Saigh.

3) The following addresses the Appellant's arguments beginning on page 20 that the combination of Von Kohorn and Saigh does not disclose the Appellant's claimed features.

Examiner notes that a 35 USC 103(a) rejection was made and that it is the features of Von Kohorn and of Saigh and the combination of the features of Von Kohorn and Saigh that render the Appellant's claimed invention obvious.

Examiner notes that once a feature is established that that feature is also established for all subsequent claims and depending claims. For example, once Von Kohorn and Saigh have been utilized to demonstrate the obviousness of utilizing the Internet for communication purposes, the same demonstration of the obviousness of utilizing the Internet is not represented. Rather, subsequent features and dependent claims would presuppose that the utilization of the Internet was demonstrated earlier in rejection and not represent the Internet utilization demonstration. Note that the demonstration of the combination of Von Kohorn and Saigh such that it would be obvious that Von Kohorn can utilize the Internet for communication purposes was made in the above sections VII. B. 1) and VII. B. 2).

Hence, later features of a claim and dependent claims build on what has already been demonstrated by the Examiner.

Beginning on page 20 of the Appeal Brief filed 3/10/2005, in regards to independent claim 76, Appellant states that Von Kohorn and Saigh do not disclose, "Storing at an Internet accessible location incentive information pertaining to a group of available incentives. .

.receiving at the Internet-accessible location, from a user of a remote terminal, a request for access to the stored incentive information. . . transmitting a prompt to the user's remote terminal to electronically complete a user profile. . . downloading to the user's remote terminal an incentive data management software module for managing the printing of incentives. . . if the user is registered, the user viewing a subset of incentives from the group of available incentives, the subset of incentives being based on user-specific information, which comprises at least one of the user profile information and the user usage history information. . . printing at the remote terminal, under control of the incentive data management software module, one or more of the user-selected incentives."

Please see the Final Rejection cited above as well as the additional citations and demonstrations made in this Response to Arguments section to see how the combination of Von Kohorn and Saigh discloses the Appellant's claimed features.

Also, Von Kohorn discloses a coupon distribution system for allowing a user to view and request available coupons.

Von Kohorn discloses permitting selection from said plurality of coupons from a coupon menu (col 2, line 65-col 3, line 2; col 81, lines 42-45; Fig. 25; Fig. 26).

Von Kohorn further discloses that the consumer can indicate an interest in a product and that incentives can be sent to a consumer in response to the consumer interest (col 47, line 40-col 48, line 2) and that the incentives can be coupons (col 2, lines 45-52).

Von Kohorn further discloses:

"(10) All coupons, by their numbers or other identifications, can be traced to the household having requested them. This makes it possible to compare the coupons requested

and redeemed with the coupons requested and not redeemed by individual families or shopping

units. The method also permits an evaluation of each individual stimulus or advertisement

household by household" (col 2, lines 20-28).

Von Kohorn discloses utilizing a client (or personal) computer.

Note that the Microsoft Press Computer Dictionary Third Edition defines 'personal

computer' as, "A computer designed for use by one person at a time. Personal computers do not

need to share the processing, disk, and printer resources of another computer."

Von Kohorn further discloses the utilization of a personal computer by the potential

customer. Fig. 26 discloses a computer (item 804) with memory and connected to a printer (360)

(Fig. 26, item 704, item 360).

Von Kohorn further discloses utilizing a client (or personal) computer:

"(322) FIG. 26 shows the response unit 800. The response unit 800 provides the

functions of the response unit 210 of FIG. 8 by use of a computer 804 which replaces certain

components of the response unit 210, namely, the comparators 372 and 374, the registers 376

and 378, the multipliers 380 and 382, the summer 384, and the accumulator 386. The computer

804 is operative with a memory 806 which provides the program for performing the functions

of the replaced components, and also connects with the control logic unit 350 for interaction

with the memories 330, 332 and 334, the timing unit 336, and the buffer store 336. The

computer 804, which may be constructed as a microprocessor, outputs signals to the dispenser

390 and to the scoring logic unit 370 as does the accumulator 386 in FIG. 8. Also, the computer

804 can provide data on the display 358 via the control logic unit 350 (col 75, lines 31-49);

(325)   FIG. 27 shows a flow chart of the program for operation of the computer 804 of

FIG. 26. Operation begins at block 810 wherein the computer receives instructions from the

program memory 330 via the control logic unit 350. Then at block 812, the computer reads the

keyboard 356 via the buffer store 366 to determine what entry may have been made by the

respondent. If no entry has been made, operation loops back to the block 812 for a subsequent

reading of the keyboard. If an entry has been made by the respondent, such as the entry of a

response to a question, the computer reads the memories 332 and 334 at block 814 for response

and scoring criteria or instructions" (col 76. lines 20-33);

(55) It is to be understood that the circuitry of FIG. 4 constitutes only one possible

embodiment of the invention for performing these functions and that other embodiments

employing a digital computer suitably programmed (not shown) may also be employed" (col

14, lines 20-25).

Von Kohorn further discloses utilizing a computer and a computer memory for

electronically storing a plurality of coupons:

"(327)   Then, at block 826, the computer signals the scoring logic unit 370 to command

the dispenser 360 to issue the coupon. The coupon is imprinted with material based on

instructions and data stored in the program memory 330, and may also contain data stored in the

supplemental memory 806" (col 76, lines 49-59).

Von Kohorn discloses a communication device connected between the client (or

personal) computer and a host computer whereby coupon information may be downloaded to

the client (or personal) computer upon a potential consumer taking an interest in or selecting the

product or coupon.

Von Kohorn discloses that the user device is a user computer that receives coupons (Fig.

25).

Von Kohorn discloses that coupon information may be downloaded to the client (or

personal) computer upon a potential consumer taking an interest in the product:

"(15)   In another version of the above method, a shopper need not respond to a question,

but makes a product selection and requests the printing and dispensing of a coupon carrying a

discount on the chosen advertised product by entering an appropriate request in the entering

device of a response unit (col 2, line 65-col 3, line 2);

(16)   The response units at individual shoppers' locations have means for dispensing

individual coupons following a response and for compiling a cumulative record of products for

which the shopper has requested or selected discount coupons. Such a cumulative record can

take the form of a tape intermittently printed as coupons are requested. Whereas the coupons

are dispensed individually when printed as described in connection with the drawings, the tape

matrix having the cumulative coupon data printed thereon is temporarily retained in the

response unit in the form of a tape (col 3, lines 3-14);

(319)   However, in the practice of this aspect of the invention wherein the contestant

can select areas of interest, the central station sends also additional sets of answer instructions,

scoring criteria and coupon messages for other areas of interest such as the area B and

the area C shown in FIG. 25. While only three areas of interest are shown, it is understood that

more areas may be employed if desired. Also, by way of example, four questions are shown in

FIG. 25, it being understood that more questions may be provided if desired (col 74, lines 45-

55);

(440)   The respondent employs the keyboard to enter into a memory of the response unit

the identifying numbers of those items for which there is an interest in a future purchase at a

sale or discounted price. From time to time over the ensuing days, weeks, or even months, the

instructional signal transmits to the response unit an updated listing of the items of merchandise

including data of items put on sale or on discount by the manufacturer or retailer. This

effectively flags those items which are on sale or available at discount. The computer 804 (or a

comparator 372 or 374 in the case of use of the response unit 210 of FIG. 8) compares the

respondent's entries with the flagged items, and then indicates a match by a suitable indication

such as by sounding the bell, and by leaving a message on the display 358 of the response

unit. The respondent, by command entered at the keyboard, directs the printer to list the sale or

discounted items. Alternatively, respondent enters on the keyboard items desired for purchase

and, upon such items being put on sale, the printer of the respondent's response unit prints out

coupons conveying a discount on the items without additional commands by respondent. Such

discount coupons may be printed even during an absence of the respondent, and will be

waiting for the respondent upon his or her return" (col 99, lines 49-col 100, lines 5).

Von Kohorn further discloses a user interface for permitting selection from said plurality

of coupons from a coupon menu.

Von Kohorn discloses:

"(15)   In another version of the above method, a shopper need not respond to a question,

but makes a product selection and requests the printing and dispensing of a coupon carrying a

discount on the chosen advertised product by entering an appropriate request in the entering

device of a response unit (col 2, line 65-col 3, line 2).

(16) The response units at individual shoppers' locations have means for dispensing

individual coupons following a response and for compiling a cumulative record of products for

which the shopper has requested or selected discount coupons" (col 3, lines 2-8).

Therefore, Von Kohorn discloses that the user can view and select coupons.

Also, note that when the user selects one coupon or more than one coupon that the user is

selecting a subset of coupons. Any selection of a coupon or coupons from available coupons is a

selection of a subset of coupons.

Also, Von Kohorn discloses that the user can select a subset of promotions or coupons.

"(365) In the operation of the system described, a retailer prepares a listing of products

selected for sales promotion in the target market. The products selected may be designated by

name, but often are numbered and may be divided into categories. The products listings

displayed at members, locations are grouped accordingly. If the product listing of a sponsor is

lengthy, it can be displayed to members in successive segments or groupings. This is achieved

by the use of known display and scrolling devices. Members' display devices may also be

adapted to display and re-display successive listings of products or lists of numbered products

in different categories as and when desired and such additional lists may be called up in

sequence by a member of the broadcast audience until a desired product category and/or a

specific product is displayed which a member intends to buy" (col 81, lines 6-24).

Also, Von Kohorn discloses enabling a user to download coupon data management

software to the at least one remote user computer system to be used at least in connection with

the printing of coupons.

Von Kohorn discloses downloading or transmitting instructional signals and
programming routines (col 2, lines 55-60; col 109, lines 10-16; col 14, lines 20-25; col 20, lines
57-65; col 26, lines 45-52; col 6, line 56-col 7, line 27).

Von Kohorn further discloses that the programming instructions are ordered as a module
or in a group (col 5, lines 31-45; col 4, line 21-35; col 41, liners 28-60).

Von Kohorn further discloses that the programmed response unit can print incentives (col
2, lines 52-56; col 39, lines 24-31; col 41, lines 52-60; col 19, lines 29-34; col 20, lines 57-64;
col 22, lines 49-55; col 34, line 67-col 35, line 6).

Also, Von Kohorn discloses that the user's system is specified as a remote system (Fig. 2;
page 20, lines 7-11). Furthermore, the printer's are associated with the user's system (page 16,
lines 5-10).

Also, Von Kohorn discloses that instructional signals can be transmitted for managing or
adjusting coupons:

"(85)   The latter method has the advantage that a sponsor or advertiser can have up-to-
date promotional information printed on <u>coupons</u> by directing the station which transmits
<u>instructional</u> signals to remote locations to include in such signals the desired advertising
material. A last-minute-telephone call by an advertiser to the sub-carrier station with directives
to incorporate certain <u>instructional</u> signals in the sub-carrier transmission will result in a large
number of shoppers being alerted to special sales through up-to-the-minute <u>coupon</u> promotions"
(col 19, lines 29-39).

Hence, Von Kohorn discloses downloading or transmitting instructional signals and
programming routines where the programming instructions can be ordered as a module or in a

group that is utilized for coupon adjusting, coupon managing, coupon printing which is

functionally equivalent to downloading to the one or more remote user systems an incentive data

management software module.

Also, Von Kohorn discloses a printer for printing coupons selected at said user interface.

Von Kohorn discloses:

"(15) In another version of the above method, a shopper need not respond to a question,

but makes a product selection and requests the printing and dispensing of a coupon carrying a

discount on the chosen advertised product by entering an appropriate request in the entering

device of a response unit (col 2, line 65-col 3, line 2).

(29) The term "print-out" is intended to include printed, embossed, punched, stamped,

and other types of hard copy, paper, cardboard and plastic in the form of coupons, certificates,

tokens, cards, forms and matrices. The printing of the print-out includes the foregoing forms of

marking including the creation of three-dimensional configurations" (col 10, lines 15-21).

Also, please note the printing capabilities of the user's Response Unit in Fig. 25, item 330

(Fig. 25, item 330) and that Fig. 26 discloses a computer (item 804) with memory and

connected to a printer (360) (Fig. 26, item 704, item 360).

(391) It may also be printed on the coupon contained in the free-standing insert. In

another version of the method, the preprinted coupons are provided with an identification, such

as an alphanumeric or other code. Coupons dispensed to a prize-winning shopper by

his or her response unit also are provided with an alphanumeric or other code. A shopper

presenting a preprinted coupon and a prize-winning coupon having matching or correlated

codes is entitled to an additional prize, which may be a sweepstake prize. The value of the

additional prize is disclosed to such a shopper only at the sales outlet. All of the methods

described will raise the redemption rates of coupons" (col 86, lines 10-25).

Note that Appellant's claim 94 discloses "downloading to the personal computer a unique

identifier" and that it is this information which is recorded. Hence, the unique identifier can be

an identifier downloaded to the computer that identifies the user.

Von Kohorn further discloses downloading to the remote terminal a unique identifier (col

39, lines 44-59).

Von Kohorn further discloses that downloading the incentive data management software

module comprises downloading the unique identifier (col 41, lines 44-52; col 109, lines 10-16).

Von Kohorn further discloses that the unique identifier is stored on the remote terminal

(col 86, lines 12-24; col 76, lines 55-60).

Von Kohorn further discloses that each printed incentive can be rendered unique by

including on the printed incentive user identification information and unique incentive

information (col 2, lines 10-29; col 3, lines 31-37; col 3, lines 55-66; col 39, lines 42-46; col 40,

lines 10-15; col 86, lines 3-24).

Von Kohorn further discloses that the user identification information is encoded in a

user-specific bar code included on the printed incentive (col 10, lines 40-45; col 37, lines 25-

30).

Also, Von Kohorn discloses utilizing identifying indicia and that the identifying indicia

can be a bar code:

"(10) All coupons, by their numbers or other identifications, can be traced to the

household having requested them. This makes it possible to compare the coupons requested

and redeemed with the coupons requested and not redeemed by individual families or shopping

units. The method also permits an evaluation of each individual stimulus or advertisement

household by household (col 2, lines 20-28);

(33) The terms "code", "encoding", and "encryption" are intended to include

alphanumeric codes, color codes, bar codes and symbols, including those readable, recognizable

or conveyable by humans and machines (col 10, lines 40-45);

(165) Printers 390 and 392 within the dispenser 360 can provide for imprinting in the

form of alphanumeric and symbolic indicia, or by means of bar code or color code. By way of

example, the printers 390 and 392 may be constructed as dot-matrix printers. If desired, printer

390 may be constructed to output the printed message on a magnetic strip (not shown) of the

card 362 (col 37, lines 25-30);

(321) If desired verification codes may be imprinted on the coupon in a manner described

hereinabove. A product may also be selected prior to responding to a task, subject of course, to

entering an acceptable answer or prediction" (col 75, lines 25-31).

Also, Fig. 25 discloses the printing of coupons (Fig. 25).

Therefore, Von Kohorn discloses that identifying indicia is utilized to identify users and

coupons and that the coupons can be printed.

Also, Von Kohorn discloses identifying the Response Unit (computer) utilized:

"(457) According to the present invention, the response unit or dispenser 1005 includes

known means for printing on a paper tape or other matrix a composite record of products for

which individual <u>coupons</u> have been dispensed. In a preferred embodiment, the <u>printer</u> of the

dispenser creates a duplicate imprint of the information <u>printed on the coupon</u> on the matrix of

the cumulative <u>record</u> 1018, which also identifies the response unit user or dispenser 1005" (col

101, line 65-col 102, line 5).

Also, Von Kohorn further discloses tracking coupons printed or utilized:

"(23) The present method permits generating the buying pattern not only of a

household but of the individuals comprising said household, including children. To identify

each individual and in view of the fact that each household is associated with an identified

response unit, the additional identification for each member of the household can be a very

simple one, such as a one-digit number or initial. Children will have no problem entering their

personal identification symbol when making a product selection;

(24) The described methods thus add to present market research tools the capability of

statistically measuring the effectiveness of the discrete purchase behavior of an individual

consumer" (col 3, lines 37-col 4, line 2);

(499) The coupons dispensed to each individual are either redeemed by said

individual or are turned over to the family head, the family shopper or other designated person.

The coupons requested, as compiled on the cumulative record, reflect as a minimum each

person's <u>desire</u> to receive the selected item. Although some of the coupons, such as those

dispensed to children, may not be redeemed once the family shopper has entered the store,

valuable information as to each person's <u>desires</u> is collected by the promoters of these programs

and can be followed by promotions targeted with rifleshot precision" (col 105, line 65-col 106,

line 10);

(16)   The response units at individual shoppers' locations have means for dispensing

individual coupons following a response and for compiling a cumulative record of products for

which the shopper has requested or selected discount coupons. Such a cumulative record can

take the form of a tape intermittently printed as coupons are requested. Whereas the coupons are

dispensed individually when printed as described in connection with the drawings, the tape

matrix having the cumulative coupon data printed thereon is temporarily retained in the response

unit in the form of a tape (col 3, lines 3-14);

(454)   In FIG. 33, the response unit 1005 prints a record 1008, such as a discount coupon

requested by a shopper in a printing step 1006, which may be combined with printing step 1007

of a cumulative printout or record 1018. Record 1008 specifies the selected product and the

purchase incentive, i.e. the discount or other value available to a shopper upon purchase of the

product. Record 1008 also identifies the shopper and the stimulus that prompted the purchase

decision (col 101, lines 30-37);

(457)   According to the present invention, the response unit or dispenser 1005 includes

known means for printing on a paper tape or other matrix a composite record of products for

which individual coupons have been dispensed. In a preferred embodiment, the printer of the

dispenser creates a duplicate imprint of the information printed on the coupon on the matrix of

the cumulative record 1018, which also identifies the response unit user or dispenser 1005" (col

101, line 65-col 102, line 5).

Therefore, Von Kohorn discloses printing coupons with unique identifiers and also

recording the user's printing or utilizing of coupons.

Note that coupon data information as well as instructions for printing the coupons is downloaded to the user Response Unit (computer) as demonstrated in the above citations.

Also, note that, in regards to claim 91, that downloading instructional signals can also comprise downloading a unique identifier for identifying the coupon at the same time:

"(85)   The latter method has the advantage that a sponsor or advertiser can have up-to-date promotional information printed on coupons by directing the station which transmits instructional signals to remote locations to include in such signals the desired advertising material. A last-minute-telephone call by an advertiser to the sub-carrier station with directives to incorporate certain instructional signals in the sub-carrier transmission will result in a large number of shoppers being alerted to special sales through up-to-the-minute coupon promotions (col 19, lines 29-39);

(10)   All coupons, by their numbers or other identifications, can be traced to the household having requested them. This makes it possible to compare the coupons requested and redeemed with the coupons requested and not redeemed by individual families or shopping units. The method also permits an evaluation of each individual stimulus or advertisement household by household" (col 2, lines 20-29).

Also, Von Kohorn does disclose that a user can register.

Von Kohorn furher discloses enabling the user to register an account with the Internet-accessible service system (col 94, lines 1-12; col 94, lines 56-62; col 97, lines 64-70; col 103, line 62-col 104, line 2).

Von Kohorn further discloses determining at the network-accessible location if the user is a registered user, and if the user is not registered (col 3, line 56-col 3, line 66; col 94, line 56-col 94, line 70; col 97, line 64-col 98, line 5; col 100, lines 42-50; col 103, line 65-col 104, line 3;):

i) transmitting a prompt to the user's remote terminal to electronically complete a user profile (col 46, lines 41-46; col 113, lines 20-22);

ii) receiving and storing the user profile (col 3, lines 33-col 4, line 2; col 1, line 55-col 2, line 48; col 46, lines 41-46; col 113, lines 20-22).

Von Kohorn further discloses individual, household, and individual and household accounts (col 1, lines 35-43; col 1, lines 61-67; col 3, lines 55-67).

Von Kohorn further discloses that the profile data submitted to the Internet accessible location comprises demographic data (col 46, lines 41-46; col 113, lines 20-22).

Von Kohorn further discloses that a historic buying profile for the user is also used by the at least one coupon distributor or coupon issuer for market analysis to compile at least one subsequent coupon targeted specifically at the user (col 1, lines 25-43; col 1, lines 59-col 2, line 11; col 3, lines 55-col 4, line 2; col 106, lines 1-10).

Therefore, Von Kohorn discloses that the user registers for utilization of the system.

Therefore, as demonstrated in the Final Rejection and Response to Arguments section above, the combination of Von Kohorn and Saigh renders the features of the Appellant's independent claim 76 obvious.

Beginning on page 31, Appellant presents arguments concerning independent claim 112.

Please see the above citations and demonstrations in this Response to Arguments section and

Final Rejection section regarding the similar features of these independent claims 76 and 112.

Additionally, Appellant states that none of the features of any of the Appellant's

dependent claims are disclosed by the prior art combination of Von Kohorn and Saigh.

Appellant lists every dependent claim and states that it is not disclosed by the combination of

Von Kohorn and Saigh.

However, please see the Response to Arguments section above and the Final Rejection

section above for citations and demonstrations as to how the combination of Von Kohorn and

Saigh discloses the Appellant's features of the Appellant's dependent claims.

As an example of how Von Kohorn and Saigh disclose the Appellant's dependent claims,

on page 27, in reference to dependent claim 94, Appellant states that Von Kohorn and Saigh do

not disclose, "wherein a printed incentive includes a bar code printed thereon, the bar code

including the unique identifier."

However, as cited in the Final Rejection, Von Kohorn further discloses that the user

identification information is encoded in a user-specific bar code included on the printed coupon;

that each printed incentive is printed with a unique bar code including unique identification

information or printed with a unique identification number:

"(10) All coupons, by their numbers or other identifications, can be traced to the

household having requested them. This makes it possible to compare the coupons requested

and redeemed with the coupons requested and not redeemed by individual families or shopping

units. The method also permits an evaluation of each individual stimulus or advertisement

household by household (col 2, lines 20-29);

(33) The terms "code", "encoding", and "encryption" are intended to include

alphanumeric codes, color codes, bar codes and symbols, including those readable, recognizable

or conveyable by humans and machines (col 10, lines 40-45);

(165) Printers 390 and 392 within the dispenser 360 can provide for imprinting in the

form of alphanumeric and symbolic indicia, or by means of bar code or color code. By way of

example, the printers 390 and 392 may be constructed as dot-matrix printers. If desired, printer

390 may be constructed to output the printed message on a magnetic strip (not shown) of the

card 362" (col 37, lines 25-30).

Therefore, Von Kohorn and Saigh do disclose that a printed incentive includes a bar code

printed thereon, the bar code including the unique identifier.

Please see the Response to Arguments section above and the Final Rejection section

above for citations and demonstrations as to how the combination of Von Kohorn and Saigh

discloses the Appellant's features of the other dependent claims.

For the above reasons, it is believed that the rejections should be sustained.

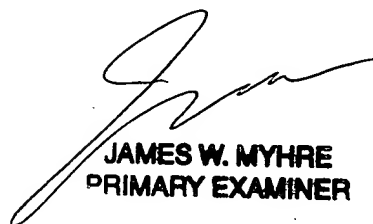Respectfully submitted,

April 20, 2005

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